

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HARRIET NICHOLSON, PLAINTIFF

V.

BANK OF NEW YORK, DEFENDANT

CIV.:1:22-CV-03177

PLAINTIFF'S REQUEST TO TAKE JUDICIAL NOTICE

Now Comes Plaintiff Harriet Nicholson and files this Plaintiff's Request To Take Judicial Notice of Related Court records from prior Texas action<sup>1</sup> and would show unto the court the following:

Plaintiff Harriet Nicholson filed this independent action complaining the Texas' Amended Final Judgment" did not not comply with the oral rendition of judgment. The Amended Final Judgment was absent of reinstating Plaintiff's ownership rights and awarding any court costs agreed by Mr. Richard Danner, BONY's counsel.<sup>2</sup>

The attached itemized bill of costs supports Plaintiff's contention the "Texas' Amended Judgment" did not align with the oral rendition of judgment awarding costs that was agreed and deliberately omitted by Mr. Danner, BONY's counsel in the "Amended Final Judgment."

Dated: March 20, 2024

/s/ Harriet Nicholson

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<sup>1</sup> See [\*Shuttlesworth v. City of Birmingham\*, 394 U.S. 147, 157, 89 S.Ct. 935, 22 L.Ed.2d 162 \(1969\)](#) (taking judicial notice of record in prior litigation between same parties);

<sup>2</sup> See Ex. A, Texas' prior action agreed bill of costs by BONY's counsel, Mr. Richard Dwayne Danner

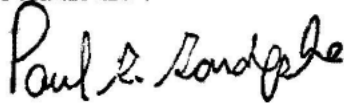
## EX. A

**MEMO ENDORSED:** On March 21, 2024, pro se Plaintiff Harriet Nicholson filed a request for this Court to take judicial notice of certain court documents. (Dkt. No. 134) Previously, on March 18, 2024, Plaintiff filed a notice of appeal (Dkt. No. 131) regarding Magistrate Judge Parker's November 7, 2022 Report and Recommendation concerning Defendant's motion to dismiss (Dkt. No. 83); this Court's August 28, 2023 order adopting Judge Parker's Report and Recommendation and dismissing the case (Dkt. No. 105); the Clerk of Court's January 17, 2024 judgment entered against Plaintiff (Dkt. No. 116); and this Court's February 21, 2024 order denying Plaintiff's subsequent requests for relief. (Dkt. No. 128) On March 19, 2024, Plaintiff filed an amended notice of appeal regarding the same matters. (Dkt. No. 133).

Generally, "filing a notice of appeal divests a district court of jurisdiction." Am. Transit Ins. Co. v. Bilyk, 514 F. Supp. 3d 463, 470 (E.D.N.Y. 2021); see Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982) ("The filing of a notice of appeal is an event of jurisdictional significance – it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal."). And "[w]here the appeal is from a final judgment, the district court can take only limited action during pendency of the appeal." Satcom Int'l Grp. PLC v. Orbcomm Int'l Partners, L.P., 55 F. Supp. 2d 231, 233 (S.D.N.Y. 1999)

Here, Plaintiff's notice of appeal relates to, inter alia, this Court's order granting Defendant's motion to dismiss (Dkt. No. 105), and the final judgment (Dkt. No. 116). As a result of Plaintiff's filing of a notice of appeal, this Court lacks jurisdiction to address Plaintiff's most recent motion. Accordingly, Plaintiff's motion is denied as moot. The Clerk of Court is directed to terminate the motion (Dkt. No. 134).

SO ORDERED.



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Paul G. Gardephe  
United States District Judge

Date: March 29, 2024

342-262692-12

FILED  
TARRANT COUNTY  
4/29/2022 1:50 PM  
THOMAS A. WILDER  
DISTRICT CLERK

April 29, 2022

Thomas A. Wilder  
Tarrant County District Clerk  
100 N. Calhoun St.  
Ft. Worth, TX 76196

Via: E-Filing

Re: Court Costs

Nicholson v. Bank of New York Mellon, et al Cause No. 342-262692-12

Dear Mr. Wilder,

This letter is to provide you with an itemized list of costs.

A copy of this filing is being provided to defendants

The itemized Costs are as follows:

- |                           |            |
|---------------------------|------------|
| • Filing Fees             | \$249.00   |
| • Service of Process Fees | \$415.00   |
| • Mediation               | \$1,060.00 |
| • Court Report Fees       | \$160.00   |

Total \$1,874.00

I have attached copy of the trial court's judgment awarding costs and a copy of the email from Timothy Baker and previous letter sent to you and the chain with defendant's counsel working out the proper itemization of costs. Please tax costs against the defendants and send a cost bill to them.

/s/ Harriet Nicholson

342-262692-12

**CAUSE NO. 342-262692-12**

FILED  
TARRANT COUNTY  
9/15/2020 12:17 PM  
THOMAS A. WILDER  
DISTRICT CLERK

**HARRIET NICHOLSON,**

***Plaintiff,***

**V.**

**THE BANK OF NEW YORK MELLON  
FKA THE BANK OF NEW YORK AS  
TRUSTEE FOR THE  
CERTIFICATEHOLDERS OF CWMBS,  
INC., CWMBS REFORMING LOAN  
REMIC TRUST CERTIFICATES  
SERIES 2005-R2, et al.**

***Defendants.***

IN THE DISTRICT COURT

OF TARRANT COUNTY, TEXAS

**342nd JUDICIAL DISTRICT**

FILED  
TARRANT COUNTY  
2020 SEP 16 PM 2:08  
THOMAS A. WILDER  
DISTRICT CLERK

**AMENDED FINAL JUDGMENT**

On this day the Court considered the following: (1) Defendant David Stockman's Motion for Summary Judgment; and (2) Defendant Countrywide Home Loans, Inc.'s Traditional and No-Evidence Motion for Summary Judgment. After reviewing the motions, all objections and replies filed therewith, the summary judgment evidence presented, arguments of the parties and applicable law, the Court enters the following orders:

- (1) IT IS ORDERED THAT DEFENDANT DAVID STOCKMAN'S MOTION FOR SUMMARY JUDGMENT IS GRANTED;
- (2) IT IS ORDERED THAT DEFENDANT COUNTRYWIDE HOME LOANS, INC.'S TRADITIONAL MOTION FOR SUMMARY JUDGMENT AND NO-EVIDENCE MOTION FOR SUMMARY JUDGMENT ARE GRANTED;
- (3) IT IS FURTHER ORDERED THAT COSTS OF COURT AND ATTORNEYS' FEES ARE TO BE BORNE BY THE PARTY INCURRING SAME.

This Final Judgment, together with the court's prior "Final Judgment" date October 26, 2017, attached hereto as **Exhibit A**, is incorporated herein and together constitute a final, appealable judgment. All relief not expressly granted herein is denied. *this Final*

SIGNED:

9/16/20

DISTRICT JUDGE PRESIDING

3A  
DISTRICT JUDGE PR

together constitute a final,  
this Final Judgment  
parties and all claims  
before the  
SIDING  
Court.

It is, therefore,  
a final and  
appealable judgment.



**E-MAILED** *MT*



# EXHIBIT "A"



A CERTIFIED COPY  
ATTEST: 10/22/2021  
THOMAS A. WILDER  
DISTRICT CLERK  
TARRANT COUNTY, TEXAS  
BY: Jennifer Huynh



ORDERED, ADJUDGED AND DECREED that all relief not expressly granted herein is denied.

SIGNED: October 26, 2017

  
JUDGE WADE BIRDWELL, PRESIDING

FINAL JUDGMENT

Page 2



A CERTIFIED COPY  
ATTEST: 10/22/2021  
THOMAS A. WILDER  
DISTRICT CLERK  
TARRANT COUNTY, TEXAS  
BY: Jennifer Huynh

342-262692-12

FILED  
TARRANT COUNTY  
1/16/2018 12:00 AM  
THOMAS A. WILDER  
DISTRICT CLERK

## Law Office of Timothy E. Baker

1205 S. Greenville Avenue  
Allen, TX 75002  
Phone: 214-727-4956  
Fax: 214-506-6015  
[www.timbakerlaw.com](http://www.timbakerlaw.com)

January 15, 2018

Thomas A. Wilder  
Tarrant County District Clerk  
100 N. Calhoun St.  
Ft. Worth, TX 76196

Via: E-Filing

Re: Court Costs  
Nicholson v. Bank of New York Mellon, et al  
Cause No. 342-262692-12

Dear Mr. Wilder,

This letter is to provide you with an itemized list of costs. A copy of this filing is being provided to defendants.

The itemized costs are as follows:

• Filing Fees	\$249.00
• Service of Process Fees	\$415.00
• Mediation	\$1,050.00
• Court Report Fees	\$160.00
Total	<hr/> \$1,874.00

I have attached copy of the trial court's judgment awarding costs and a copy of the email chain with defendant's counsel working out the proper itemization of costs.

Please tax costs against the defendants and send a cost bill to them.

Sincerely,



Timothy E. Baker



### 342nd JUDICIAL DISTRICT

**ORDERED, ADJUDGED AND DECREED** that all relief not expressly granted herein is denied.

SIGNED: October 26, 2017

  
\_\_\_\_\_  
JUDGE WADE BIRDWELL, PRESIDING

---

**Subject:** RE: Nicholson - Court Costs

---

**From:** Danner, Dwayne (ddanner@mcglinchey.com)

---

**To:** tbaker@timbakerlaw.com;

---

**Cc:** bmccain@mcglinchey.com;

---

**Date:** Friday, December 15, 2017 3:02 PM

---

Tim, The \$1874.00 is agreed, but you still have the state court copy fees listed below.

**R. Dwayne Danner**

**direct:** (214) 445-2408  
**fax:** (214) 593-4588  
**mobile:** (214) 693-5433  
**email:** ddanner@mcglinchey.com  
**office:** 6688 N. Central Expressway, Ste 400 | Dallas, TX 75206



---

[bio](#) | [vcard](#) | [www.mcglinchey.com](#) | [www.cafalawblog.com](#)

---

Alabama California Florida Louisiana Mississippi New York Ohio Texas Washington, DC

---

**From:** Tim Baker [mailto:tbaker@timbakerlaw.com]  
**Sent:** Friday, December 15, 2017 10:11 AM  
**To:** Danner, Dwayne <ddanner@mcglinchey.com>  
**Cc:** McCain, Barry <bmccain@mcglinchey.com>  
**Subject:** Re: Nicholson - Court Costs

Dwayne,

So, with the state court copying taken out, we are left with:

- Filing Fees - \$249
- Service of Process - \$415 (as your count had one additional service of process fee)
- Mediation - \$1,050
- State Court Copying - \$31.80
- Court Reporter Fees - \$160

Total - \$1,874.00.

Do you agree with this amount

Tim

214-727-4956

---

**From:** "Danner, Dwayne" <[ddanner@mcglinchey.com](mailto:ddanner@mcglinchey.com)>  
**To:** Tim Baker <[tbaker@timbakerlaw.com](mailto:tbaker@timbakerlaw.com)>  
**Cc:** "McCain, Barry" <[bmccain@mcglinchey.com](mailto:bmccain@mcglinchey.com)>  
**Sent:** Tuesday, December 12, 2017 6:32 PM  
**Subject:** RE: Nicholson - Court Costs

Tim – I can't agree to the "state court copying" as it is not a "court cost" although I realize it was a cost to your client.

**R. Dwayne Danner**

**direct:** (214) 445-2408  
**fax:** (214) 593-4588  
**mobile:** (214) 693-5433  
**email:** [ddanner@mcglinchey.com](mailto:ddanner@mcglinchey.com)  
**office:** 6688 N. Central Expressway, Ste 400 | Dallas, TX 75206



---

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---

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**From:** Tim Baker [<mailto:tbaker@timbakerlaw.com>]  
**Sent:** Monday, December 11, 2017 7:44 PM  
**To:** Danner, Dwayne <[ddanner@mcglinchey.com](mailto:ddanner@mcglinchey.com)>  
**Cc:** McCain, Barry <[bmccain@mcglinchey.com](mailto:bmccain@mcglinchey.com)>  
**Subject:** Re: Nicholson - Court Costs

Dwayne,

The copy costs are for copies of documents for service to the Court and/or Defendants specifically related to the state court proceeding. Ms. Nicholson has informed me she paid the mediation fee and did not receive a refund.

Regards,

Tim Baker

---

**From:** "Danner, Dwayne" <[ddanner@mcglinchey.com](mailto:ddanner@mcglinchey.com)>  
**To:** Tim Baker <[tbaker@timbakerlaw.com](mailto:tbaker@timbakerlaw.com)>  
**Cc:** "McCain, Barry" <[bmccain@mcglinchey.com](mailto:bmccain@mcglinchey.com)>  
**Sent:** Monday, December 11, 2017 5:09 PM  
**Subject:** RE: Nicholson - Court Costs

Hi Tim. What is the state court copying fee, is that related to federal court? Also, on the mediation fee, do you represent that your client paid this and did not receive any refund on this fee?

**R. Dwayne Danner**

direct: (214) 445-2408  
fax: (214) 593-4588  
mobile: (214) 693-5433  
email: [ddanner@mcglinchey.com](mailto:ddanner@mcglinchey.com)  
office: 6688 N. Central Expressway, Ste 400 | Dallas, TX 75206



[bio](#) | [vcard](#) | [www.mcglinchey.com](http://www.mcglinchey.com) | [www.cafalawblog.com](http://www.cafalawblog.com)

---

**From:** Tim Baker [<mailto:tbaker@timbakerlaw.com>]  
**Sent:** Monday, December 04, 2017 1:45 PM  
**To:** Danner, Dwayne <[ddanner@mcglinchey.com](mailto:ddanner@mcglinchey.com)>  
**Cc:** McCain, Barry <[bmccain@mcglinchey.com](mailto:bmccain@mcglinchey.com)>  
**Subject:** Re: Nicholson - Court Costs

Dwayne,

Attached is a copy of the check she paid for mediation. Please let me know if you are now in agreement with my revised cost calculation below.

Regards,

Tim Baker  
214-727-4956

---

**From:** "Danner, Dwayne" <[ddanner@mcglinchey.com](mailto:ddanner@mcglinchey.com)>  
**To:** Tim Baker <[tbaker@timbakerlaw.com](mailto:tbaker@timbakerlaw.com)>  
**Cc:** "McCain, Barry" <[bmccain@mcglinchey.com](mailto:bmccain@mcglinchey.com)>  
**Sent:** Monday, November 20, 2017 2:05 PM  
**Subject:** RE: Nicholson - Court Costs

Hi Tim. My only question is does she have a receipt for the Steele mediation. I thought we paid most of that.

**R. Dwayne Danner**

direct: (214) 445-2408  
fax: (214) 593-4588  
mobile: (214) 693-5433  
email: [ddanner@mcglinchey.com](mailto:ddanner@mcglinchey.com)  
office: 6688 N. Central Expressway, Ste 400 | Dallas, TX 75206



[bio](#) | [vcard](#) | [www.mcglinchey.com](http://www.mcglinchey.com) | [www.cafalawblog.com](http://www.cafalawblog.com)

---

**From:** Tim Baker [<mailto:tbaker@timbakerlaw.com>]  
**Sent:** Monday, November 20, 2017 1:48 PM  
**To:** Danner, Dwayne <[ddanner@mcglinchey.com](mailto:ddanner@mcglinchey.com)>



**Cc:** McCain, Barry <[bmccain@mcglinchey.com](mailto:bmccain@mcglinchey.com)>

**Subject:** Nicholson - Court Costs

Mr. Danner,

In my motion, we asked for the following court costs:

1. Plaintiff has incurred the following costs:

- Filing Fees - \$1,259.00 (\$249 or original filing fee, \$505 each for two Federal appeal filing fees)
- Service of Process Fees - \$332.00
- Arbitration/Mediation Fees - \$1,050.00 (\$1,000 for Ralph Steele and \$50 for DSR)
- Required Federal Photocopying - \$1,165.60
- Required State District Court photocopying - \$31.80
- Court Report Fees - \$160.00
- PACER Fees - \$659.00

Total Costs: \$4,657.40

We are now proposing:

- Filing Fees - \$249
- Service of Process - \$415 (as your count had one additional service of process fee)
- Mediation - \$1,050
- State Court Copying - \$31.80
- Court Reporter Fees - \$160

Total - \$1,905.80.

Please let me know if you agree with this revised number.

Regards,

Tim Baker

214-727-4956

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[www.mcglinchey.com](http://www.mcglinchey.com) | [www.CafaLawBlog.com](http://www.CafaLawBlog.com)

McGlinchey Stafford, PLLC in Alabama, Florida, Louisiana, Mississippi, New York, Ohio, Texas, and Washington DC and McGlinchey Stafford, LLP in California.

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## Attachments

- image001.gif (4.33KB)

**Automated Certificate of eService**

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Envelope ID: 64048137

Status as of 4/29/2022 2:09 PM CST

Associated Case Party: HARRIETNICHOLSON

Name	BarNumber	Email	TimestampSubmitted	Status
Harriet Nicholson		save.my.home.in.2013@gmail.com	4/29/2022 1:50:13 PM	SENT
Harriet Nicholson		harrietnicholson@yahoo.com	4/29/2022 1:50:13 PM	SENT
Harriet Nicholson		nfena@yahoo.com	4/29/2022 1:50:13 PM	SENT

Associated Case Party: THEBANK OF NEW YORK MELLON

Name	BarNumber	Email	TimestampSubmitted	Status
Dwayne Danner		ddanner@mcglinchey.com	4/29/2022 1:50:13 PM	SENT

Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Angelia Foster		afoster@mcglinchey.com	4/29/2022 1:50:13 PM	SENT
CRYSTAL ROACH		crystalr@bdfgroup.com	4/29/2022 1:50:13 PM	SENT
Holly Bishop		hbbishop@tarrantcounty.com	4/29/2022 1:50:13 PM	SENT
Julia OBoyle		jboyle@mcglinchey.com	4/29/2022 1:50:13 PM	SENT

Associated Case Party: THENATIONSTAR MORTGAGE LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Matthew Durham	24040226	matthew.durham@citi.com	4/29/2022 1:50:13 PM	SENT
Elayne Napoles		enapoles@mcguirewoods.com	4/29/2022 1:50:13 PM	SENT
Matthew Durham		mdurham@mcguirewoods.com	4/29/2022 1:50:13 PM	SENT
Cindy Boyd		cboyd@mcguirewoods.com	4/29/2022 1:50:13 PM	SENT

Associated Case Party: DAVIDSTOCKMAN



**Automated Certificate of eService**

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Envelope ID: 64048137

Status as of 4/29/2022 2:09 PM CST

Associated Case Party: DAVIDSTOCKMAN

Name	BarNumber	Email	TimestampSubmitted	Status
crystal roach		crystalr@bdfgroup.com	4/29/2022 1:50:13 PM	SENT

Associated Case Party: THEHARVEY LAW GROUP

Name	BarNumber	Email	TimestampSubmitted	Status
TATIANA ALEXANDER		TALEXANDER@MCGUIREWOODS.COM	4/29/2022 1:50:13 PM	SENT